

Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased. As end users of tangible personal property located in Illinois, lessors owe Use Tax on their cost price of such property. See 86 Ill. Adm. Code 130.220. (This is a GIL.)

October 21, 2003

Dear Xxxxx:

This letter is in response to your letter dated August 7, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.1120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

My Illinois company has purchased a new car from an Illinois dealership for the amount of \$1.00. This was a purchase price agreed upon between our company and Corporation.

When I went to pick up the car the sales person stated that we would have to pay sales tax on the retail value of the car and not the purchase price. I had no choice but to pay it at that time. I do not believe that we should have paid this much sales tax. Any other time I have purchased a car sales tax is charged on the actual price paid. At what point does the price paid for a new car have nothing to do with the amount of sales tax paid.

I kindly request a return phone call or letter explaining to me the law that requires sales tax is charged on suggested retail value of an item and not the actual purchase price. If this is not the case, I would like a letter stating this fact so that I may obtain a refund of the sales tax I had to pay in order to get my car.

I thank you in advance for your time.

Your letter does not give enough detail regarding the transaction for us to give a definite response. The nature of the transaction determines the tax paid when a vehicle is transferred. When nominal amounts are involved, usually a lease or conditional sale agreement has been entered into. You do not mention that such an agreement was involved. However, the following information may be helpful.

Please note that the State of Illinois taxes leases differently for Retailers' Occupation Tax and Use Tax purposes than the majority of other states. For Illinois sales tax purposes, there are two types of leasing situations: conditional sales and true leases.

A conditional sale is usually characterized by a nominal or one dollar purchase option at the close of the lease term. Stated otherwise, if lessors are guaranteed at the time of the lease that the leased property will be sold, this transaction is considered to be a conditional sale at the outset of the transaction, thus making all receipts subject to Retailers' Occupation Tax.

A true lease generally has no buy out provision at the close of the lease. If a buy out provision does exist, it must be a fair market value buy out option in order to maintain the character of the true lease. Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased. As end users of tangible personal property located in Illinois, lessors owe Use Tax on their cost price of such property. See 86 Ill. Adm. Code 130.220. The State of Illinois imposes no tax on rental receipts. Consequently, lessees incur no tax liability. The above guidelines are applicable to all true leases of tangible personal property in Illinois except for automobiles leased under terms of one year or less, which are subject to the Automobile Renting Occupation and Use Tax found at 35 ILCS 155/1 et seq.

If the situation you are inquiring about is not a lease or conditional sale situation, please note that gross receipts for the purchase of an item of tangible personal property is not limited to monetary value. You do not describe the transaction in detail so it is possible that consideration other than money was exchanged.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:msk